

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

JAMES SYSTER,)	
)	
Plaintiff,)	
)	
v.)	No. 1:05-cv-197
)	<i>Mattice</i>
)	
DANIEL GILLEY, Sheriff of Bradley)	
County, Tennessee,)	
)	
Defendant.)	

MEMORANDUM

This is a *pro se* prisoner's civil rights action pursuant to 42 U.S.C. § 1983. The matter is before the court on the defendant's motion to dismiss. Plaintiff has not filed a response to the motion to dismiss and the court deems plaintiff to have waived his opposition to the dispositive motion. *Elmore v. Evans*, 449 F. Supp. 2, 3 (E.D. Tenn. 1976), *aff'd mem.*, 577 F.2d 740 (6th Cir. 1978); E.D.TN. LR7.2. For the following reasons, the motion to dismiss [Court File No. 16] will be **GRANTED** and this action will be **DISMISSED**. All other pending motions will be **DENIED** as **MOOT**.

Plaintiff is in the custody of the Tennessee Department of Correction (TDOC). He filed this action during his confinement in the Bradley County Jail. The defendant is Bradley County Sheriff Dan Gilley. Plaintiff's complaint concerns an alleged denial of medical treatment for liver disease. Plaintiff does not seek money damages, but rather the following

injunctive relief: to receive continued laboratory work on his blood, to receive a liver biopsy, to be placed on an organ donor receiving list, and to receive medication for his condition.

As noted, plaintiff is no longer confined in the Bradley County Jail. He is now in TDOC custody and housed at the Northwest Correctional Complex. Thus, the defendant moves to dismiss the case since he can not provide the relief plaintiff seeks. The motion to dismiss is well-taken. *See Kensu v. Haigh*, 87 F.3d 172, 175 (6th Cir. 1996) (a prisoner's claim for declaratory and injunctive relief becomes moot upon his transfer to a different facility). Accordingly, the defendant's motion to dismiss will be **GRANTED**. All other pending motions will be **DENIED** as **MOOT**. The court **CERTIFIES** that any appeal from this action would not be taken in good faith and would be totally frivolous. *See* Rule 24 of the Federal Rules of Appellate Procedure.

AN APPROPRIATE ORDER WILL ENTER.

s/ Harry S. Mattice, Jr.
HARRY S. MATTICE, JR.
UNITED STATES DISTRICT JUDGE